



STATE BOARD OF EQUALIZATION
450 N STREET, SACRAMENTO, CALIFORNIA
PO BOX 942879, SACRAMENTO, CALIFORNIA 94279-0080
(916) 322-2270 • FAX (916) 324-3984
www.boe.ca.gov

BETTY T. YEE
First District, San Francisco

SEN. GEORGE RUNNER (RET.)
Second District, Lancaster

MICHELLE STEEL
Third District, Rolling Hills Estates

JEROME E. HORTON
Fourth District, Los Angeles

JOHN CHIANG
State Controller

KRISTINE CAZADD
Executive Director

STATE BOARD OF EQUALIZATION MEETING
450 N Street, Room 121, Sacramento
December 14-15, 2011
NOTICE AND AGENDA
Meeting Agenda (as of 5:00 p.m., 12/8/11)

[Agenda Changes](#)

[Webcast on Wednesday, December 14, 2011](#)

Wednesday, December 14, 2011

10:00 a.m. Board Committee Meetings Convene*

Board Meeting convenes upon Adjournment of the Board Committee Meetings**

Agenda items occur in the order in which they appear on the agenda. When circumstances warrant, the Board's Chair may modify the order of the items on the agenda. Items may be postponed to a subsequent day; however, items will not be moved to an earlier day.

Board Committee Meetings*

[Legislative Committee](#)Mr. Horton, Committee Chairman

I. 2012 Legislative Proposals

Set forth below are suggestions for business taxes legislation to be sponsored by the BOE in the 2011-12 Legislative Session.

2012 Legislative Proposals: Business Taxes

- 2-5 Amend Government Code Section 13943.1 to allow the Board of Equalization (BOE) to provide relief of liability when a discharge from accountability has been granted, under specified conditions.
- 2-6 Amend Revenue and Taxation Code Sections 6591, 6591.5, and 6592.5, and repeal Sections 6591.6, 7655.5, 8876.5, 12631.5, 30281.5, 32252.5, 40101.5, 41095.5, 43155.5, 45153.5, 46154.5, 50112.1, 55042.5, and 60207.5 of the Sales and Use Tax and the various special taxes and fees laws to provide for daily computation of interest on late payments of tax, fees and surcharges administered by the BOE.

- 2-7 Amend Government Code Section 15620.5 to extend the authorization for the BOE to adopt a uniform policy to ensure voluntary compliance with the due dates prescribed by law for a submission of a remittance, claim for credit or refund, document, return, or other information to the BOE, to include electronic transmissions.

2012 Legislative Proposal: Business Taxes: Sales and Use Taxes

- 3-8 Repeal Revenue and Taxation Code Section 6225 of the Sales and Use Tax Law to eliminate the “qualified purchaser” program.

2012 Legislative Proposal: Business Taxes: Special Taxes and Fees

- 4-1 Amend Revenue and Taxation Code Sections 9274, 30459.4, 32474, 40214, 41174, 43525, 45870, 46625, 50156.14, 55335, and 60633.1 to allow a taxpayer to file a claim for reimbursement of bank charges and third party check charges incurred by the taxpayer as the direct result of an erroneous processing action or erroneous collection action by the BOE under the various special taxes and fees programs. (Housekeeping)

II. Streamlined Sales Tax Project and Pending Federal Legislation on Remote Sellers

Discussion item only.

[Business Taxes Committee](#).....Ms. Yee, Committee Chairwoman

1. Proposed amendments to Regulation 1685.5, *Calculation of Estimated Use Tax – Use Tax Table*

Request approval and authorization to publish proposed amendments to adjust the estimated use tax table and make it available to the Franchise Tax Board in 2012 and subsequent years.

Board Meeting**

- A. Homeowner and Renter Property Tax Assistance Hearings
There are no items for this matter.

- B. **Corporate Franchise and Personal Income Tax Hearings**
(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

B1. [Kamleshwar C. Gunsagar and Anita Gunsagar, 484764 +](#)

For Appellant: Kamleshwar C. Gunsagar, Taxpayer
Jeffrey B. Khan, Attorney
For Franchise Tax Board: Raul Escatel, Tax Counsel
Bill Hilson, Tax Counsel

B2. Leprino Foods Co., 481272 +

For Appellant: Amy L. Silverstein, Attorney
Charles E. Olson, Attorney
For Franchise Tax Board: Daniel Biedler, Tax Counsel
Bill Hilson, Tax Counsel

B3. Michael John Klemp, 568733 +

For Appellant: Michael Klemp, Taxpayer
For Franchise Tax Board: Ted Tourian, Tax Counsel
Diane Ewing, Tax Counsel

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C1. Santiago Rodriguez, 361129 (BH) +

For Petitioner: Kai Mickey, Representative
For Department: Scott Lambert, Hearing Representative

C2. Saravana Bhavan, Inc., 522442 (BH) +

For Taxpayer: Feroza Hamsath, Taxpayer
Jack Iyer, Representative
For Department: Scott Lambert, Hearing Representative

C3a. Angela Leiva, 514980 (CH) +**C3b. Angela Leiva and Abundio Hernandez, 514979 (CH) +**

For Taxpayers: Angela Leiva, Taxpayer
For Department: Scott Lambert, Hearing Representative

D. Special Taxes Appeals Hearings
There are no items for this matter.**E. Property Tax Appeals Hearings**

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

Petitions for Reassessment of Unitary Value

E1. Gill Ranch Storage, LLC (121), 577341 'CF' +

For Petitioner: Mark LoRusso, Representative
Joe Molina, Representative
For Department: Matthew Burke, Tax Counsel

E2. SureWest Telephone Company (294), 576966 'CF' +

For Petitioner: Appearance Waived
For Department: Dan Paul, Tax Counsel

F. Public Hearings**F1. 2012 Timber Yield Tax Rate +** Mr. Ingenito

Section 38202 of the Revenue and Taxation Code requires an annual adjustment of the timber yield tax rate.

F2. Timber Harvest Values + Mr. Yeung

On or before December 31, 2011, the Board shall estimate the immediate harvest values of and adopt schedules for timber harvested between January 1, 2012 and June 30, 2012.
(Rev. & Tax. Code, § 38204.)

G. Tax Program Nonappearance Matters – Consent

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

G1. Legal Appeals Matters Mr. Levine

- Hearing Notices Sent – No Response
 1. Dade Behring, Inc., 195335 (OH)
 2. Dade Behring, Inc., 261553, 261654, 261657 (OH)
- Petitions for Release of Seized Property
 3. Kamaljit Singh Grewal, 589069 (ET)
 4. John Lanh Ung and Susan Lao Ung, 588077 (ET)
- Petition for Rehearing
 5. Sanitech Corporation, 477146 (OH)

G2. Franchise and Income Tax Matters Mr. Ambrose

- Hearing Notice Sent – No Response
 1. ~~Frank A. Tortorici, 557833~~
- Decisions
 2. Margaret Bromley, 449347
 3. Kevin J. Everett, 538679
 4. Rodger Grove and Mitzi Grove, 518409
 5. Richard A. Hall, 533898
 6. Lorraine Hernandez, 535598
 7. Anthony J. Kadillak, 536353
 8. Idris A. Kothari and Sakina H. Kothari, 479803
 9. Cynthia D. Perry (Field), 507720
 10. Frank Pisano, 539224

G3. Homeowner and Renter Property Tax Assistance Matters
There are no items for this matter.**G4. Sales and Use Taxes Matters** Mr. McGuire

- Redeterminations
 1. Cindy H. Im, 478091 (EA)
 2. Joseph G. McGuire, 547491 (OH)
 3. Boeing Satellite Systems, Inc., 288372 (AS)
- Denial of Claim for Refund
 4. MLP U.S.A., Inc., 562940 (OH)

- G5. Sales and Use Taxes Matters – Credits, Cancellations, and RefundsMr. McGuire
- Credits and Cancellations
 1. Aero-Space Southwest, Inc., 588300 (GH)
 2. Lab Crafters, Inc., 528412 (OH)
 3. Inter-Steel Structures, Inc., 488649 (OH)
 4. Inter-Steel Structures, Inc., 573622 (OH)
 - Refunds
 5. LBS Financial Credit Union, 573599 (EA)
 6. Fireside Bank, 572087 (CH)
 7. Anheuser-Busch, Inc., 574024 (OH)
 8. Stiles Machinery, Inc., 460247 (OH)
 9. Chevrolet Motor Division, 588261 (OH)
 10. Mercedes-Benz USA, LLC, 586737 (KH)
 11. Toyota Motor Sales, U.S.A., Inc., 587777 (AS)
 12. Rockwell Collins, Inc., 513019 (OH)
 13. Avis Rent-A-Car System, Inc., 586266 (OH)
 14. Travis Credit Union, 572974 (JH)
 15. Lobel Financial Corporation, 573595 (EA)
 16. Kern County Employees Federal Credit Union, 568726 (AR)
 17. ACC Capital Holdings Corporation, 556970 (EA)
 18. Element Markets, LLC, 537218 (OH)
- G6. Special Taxes Matters Mr. Gau
- Redetermination
 1. 21st Century Insurance Company, 444712 (ET) 'CF'
 - Relief of Penalty
 2. ExxonMobil Oil Corporation, 578604 (MT) 'CF'
- G7. Special Taxes Matters – Credits, Cancellations, and Refunds Mr. Gau
- Refunds
 1. Santa Fe Natural Tobacco Company, Inc., 562353 (ET)
 2. Wellcare Prescription Insurance, Inc., 586885 (ET) 'CF'

There are no items for the following matters:

- G8. Property Tax Matters
 G9. Cigarette License Fee Matters
 G10. Legal Appeals Property Tax Matters

H. Tax Program Nonappearance Matters – Adjudicatory.

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

- H1. Legal Appeals MattersMr. Levine
- Case Heard Not Decided
 1. [Paul Glasson, 482541 \(CH\) +](#)

- H2. Franchise and Income Tax MattersMr. Ambrose
- Decision
 1. Marsha E. Kakalia, 404650
 - Cases Heard Not Decided
 2. Thomas Najarian and Tamar Najarian, 522166
 3. Richard Palmquist, 526815

There are no items for the following matters:

- H3. Homeowner and Renter Property Tax Assistance Matters
- H4. Sales and Use Taxes Matters

- H5. Sales and Use Taxes Matters – Credits, Cancellations, and RefundsMr. McGuire
- Refund
 1. Foss Maritime Company, 400433 (UT)

There are no Items for the following matters:

- H6. Special Taxes Matters
- H7. Special Taxes Matters – Credits, Cancellations, and Refunds

- H8. Property Tax Matters Mr. Gau
- Petitions for Reassessment of Unitary Value
 1. El Paso Natural Gas Company (197), 576908 'CF'
 2. Inland Empire Energy Center, LLC (1148), 576832 'CF'

- H9. Cigarette License Fee Matters
- There are no items for this matter.

- H10. Legal Appeals Property Tax MattersMr. Ambrose
- Petitions for Reassessment of Unitary Value
 1. San Diego Gas and Electric Co. (141), 576905 'CF'
 2. Southern California Edison Co. (148), 576082 'CF'
 3. Pacific Pipeline System, LLC (486), 576620 'CF'
 4. Genon Energy West, LP – Etiwanda (1116), 577046 'CF'
 5. Elk Hills Power, LLC (1126), 576639 'CF'
 6. Starwood Power-Midway, LLC (1153), 577048 'CF'
 7. Los Angeles SMSA Ltd., Partnership (2532), 577339 'CF'
 8. Cellco Partnership (2559), 577338 'CF'
 9. Verizon Online, LLC (7871), 577335 'CF'
 10. CBeyond Communications, LLC (8049), 577340 'CF'
 11. Charter Fiberlink CA-CCO, LLC (8061), 577087 'CF'
 - Petition for Reassessment and Penalty Abatement on Unitary Value
 12. Crimson Pipeline, LP (490), 576627 'CF'
 - Petition for Reassessment and Penalty Abatement on Unitary Escape Assessment
 13. Charter Fiberlink CA-CCO, LLC (8061), 574516 'CF'
 - Petition for Reallocation of Unitary Value
 14. Pacific Pipeline System, LLC (486), 576622 'CF'

- Petitions for Reassessment of Unitary Value
 15. Verizon California, Inc. (201), 577171 'CF'
 16. MCI Communications Services, Inc. (2274), 577336 'CF'
 17. Cricket Communications, Inc. (2762), 577573 'CF'

I. Tax Program Nonappearance Matters

(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

- I1. Property Taxes Matters..... Mr. Gau
 - Audits
 1. Flat West Wireless, LLC (2783) 'CF'
 2. Greatcall, Inc. (2784) 'CF'
 3. Astound Broadband, LLC (7832) 'CF'
 4. Newpath Networks, LLC (8077) 'CF'
 - Unitary Escaped Assessment
 5. Mother Lode Internet, LLC (2787) 'CF'
- I2. Offer in Compromise Recommendations..... Ms. Kelly/Mr. Anderson
 1. Terry Albertsen and Kathy Albertsen
 2. Richard Allen Dimaggio
 3. Gibson Enterprises, Inc.
 4. Daryl Lee Hinnenberg and Maureen Kittel Hinnenberg
 5. Edmund Joseph Irvine, Jr.
 6. Amber I. Lao
- I3. Local Tax Reallocation Matters

There are no items for this matter.

Chief Counsel Matters

- J. Rulemaking

This item is scheduled for Thursday, December 15, 2011.

There are no items for the following matters:

- K. Business Taxes
- L. Property Taxes
- M. Other Chief Counsel Matters

Administrative Session

The following items are scheduled for Thursday, December 15, 2011.

- N. Consent Agenda
- O. Adoption of Board Committee Reports and Approval of Committee Actions
- P. Other Administrative Matters

Q. Closed Session

These items are scheduled for Thursday, December 15, 2011.

Recess - The meeting will reconvene on Thursday, December 15, 2011, at 9:30 a.m.

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Diane G. Olson, Chief
Board Proceedings Division

- * Public comment on any committee agenda item will be accepted at the beginning of the committee meeting.
- ** Public comment on any agenda item, other than a Closed Session item or an item which has already been considered by a Board Committee, will be accepted at that meeting.
- + Material is available for this Item.
- ++ Material will be available at a later date.
- 'CF' Constitutional Function – The Deputy State Controller may not participate in this matter under Government Code section 7.9.



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9:30 a.m. Board Meeting Reconvenes**

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Board Meeting**

C. Sales and Use Tax Appeals Hearings

(Contribution Disclosure forms required pursuant to Gov. Code § 15626.)

C4. [Bear Data Solutions, Inc., 521430 \(GH\) +](#)

For Petitioner: Richard B. Taylor, Representative
Carol Bertocchini, Representative
For Department: Scott Lambert, Hearing Representative

C5. [Phuong Thanh Kim and Van Thanh Nguyen, 505991 \(CH\) +](#)

For Petitioners: Phuong T. Kim, Taxpayer
For Department: Scott Lambert, Hearing Representative

~~C6. [Trimark Raygal, Inc., 257881 \(EA\) +](#)~~

~~For Petitioner: Dirk Hallett, Representative
David Rennie, Representative
Dennis Fox, Representative
For Department: Andrew Kwee, Tax Counsel~~

Chief Counsel Matters

Items that appear under these matters provide information to the Members and may require Board action or direction.

J. Rulemaking

- J1. *Proposed Adoption of Amendments to Regulation 1807, Petitions for Reallocation of Local Tax, and, Regulation 1828, Petitions for Distribution or Redistribution of Transactions and Use Tax +*Mr. Heller

Request for adoption of proposed amendments to both regulations with the changes authorized on November 15, 2011.

Administrative Session

Items that appear under these matters provide information to the Members and may require Board action or direction.

- N. **Consent Agenda** Ms. Olson
(Contribution Disclosure forms not required pursuant to Gov. Code § 15626.)

N1. *Retirement Resolutions +*

- James J. Anderson
- Kelli Harrison

N2. *Approval of Board Meeting Minutes*

- *September 20-21, 2011 +*
- *October 19, 2011 +*

N3. *Proposed Revisions to Audit Manual Chapter 1, General Information +*

Request approval to publish new sections 0107.00, *Adjustments to Billed Differences*; 0108.00, *Guidelines for Processing Refunds*; and 0109.00, *Cancellation and Credits*.

N4. *Request approval of Assessors' Handbook Section 531, Residential Building Costs +*

Request approval for publication of 2012 revision of Assessors' Handbook Section 531, *Residential Building Costs*.

N5. *Request approval of Assessors' Handbook Section 534, Rural Building Costs +*

Request approval for publication of 2012 revision of Assessors' Handbook Section 534, *Rural Building Costs*.

O. Adoption of Board Committee Reports and Approval of Committee Actions

- O1. Legislative Committee
- O2. Business Taxes Committee

P. Other Administrative Matters

- P1. Executive Director's Report Ms. Cazadd
1. [Employee Recognition Award Program +](#) Ms. Herrera
Approval of nominees for the BOE Employee Recognition Award Program.
 2. CROS Project Update and Actions Mr. Steen
Progress on the CROS project to replace BOE's two current tax legacy technology systems.
- P2. Chief Counsel Report
There are no items for this matter.
- P3. Sales and Use Tax Deputy Director's Report Mr. McGuire
1. [Proposed Collection Cost Recovery Fee for Calendar Year 2012 +](#)
Approval of the annual rates based on the Stratified Flat Fee approach approved by the Board in 2010.
 2. [Update on the Taxpayer Notice Process +](#)
Staff will provide an update on the review process for taxpayer notices.
- P4. Property and Special Taxes Deputy Director's Report
There are no items for this matter.
- P5. Administration Deputy Director's Report Ms. Houser
1. [Contract Over \\$1 Million +](#)
Reimbursable Inter-Agency Agreement with the Department of Forestry and Fire Prevention to administer the State Responsibility Area Fire Preventive Fee.

There are no items for the following matters:

- P6. Technology Deputy Director's Report
P7. External Affairs Deputy Director's Report

Announcement of Closed Session Ms. Olson

Q. Closed Session

- Q1. Discussion and approval of staff recommendations regarding settlement cases (Rev. & Tax. Code §§ 6901, 7093.5, 30459.1 and 50156.11).
- Q2. Pending litigation: *Governor Edmund G. Brown, Jr., et al. v. State Controller John Chiang, et al.*, Sacramento County Superior Court, Case No. 34-2009-80000158, formerly *Governor Arnold Schwarzenegger, et al. v. State Controller John Chiang, et al.*, Sacramento County Superior Court, Case No. 34-2009-80000158 (Gov. Code, § 11126(e)).

- Q3. Pending litigation: *Schroeder, et al. v. State Board of Equalization, et al.* Sacramento Superior Court Case No. 34-2008-00004467-CU-MT-GDS; *Frankot, et al. v. State Board of Equalization, et al.*, Sacramento Superior Court Case No. 34-2008-00012174-CU-PO-GDS; and, *Allen, et al. v. State Board of Equalization, et al.*, Sacramento Superior Court, Case No. 34-2008-00017014-CU-TT-GDS (Gov. Code § 11126(e)(2)(B)(i)).
- Q4. Discussion and action on personnel matters (Gov. Code § 11126(a)).

Announcement of Open Session..... Ms. Olson

Adjourn

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